

REGISTER OF CLASSIFICATION DECISIONS

Date of entry in Register:	21 April 1999
Name of applicant/court:	Susan Monica Torlesse
Applicant to the Labelling Body:	Not Applicable
Title of Publication:	Untitled
Other Known Titles:	Not Stated
Director:	Not Applicable
Producer:	Not Applicable
Publisher:	Not Applicable
Author:	Not Applicable
Format:	Photograph
Country of Origin:	New Zealand
Language:	Not Applicable

.....

Components of film originally examined: Not Applicable.

Feature:	Running time:
Trailers:	Running time:
	Total Running time:

Excision/Alteration: Not Applicable.

Reason(s) for Excision:

Not Applicable.

... Please turn over

Classification Decision:

Objectionable except if the availability of the publication is restricted to the persons depicted in the photograph and their parents or legal guardians.

Display Conditions:

Nil.

Descriptive Note:

Not Applicable.

.....

Direction to issue a label has been given on: Not Applicable

.....

SUMMARY OF THE REASONS FOR DECISION:

The untitled photograph is classified as:

Objectionable except if the availability of the publication is restricted to the subjects depicted in the photograph and their parents or legal guardians.

The colour photograph measures approximately 10 cm wide by 15 cm high. The photograph is one of two prints of the same image submitted for classification, one of a total of 35 photographs submitted together. The image depicts a fully naked girl 8 to 10 years of age sitting on and against Jewish ritual garments known as *tallitot*. Her knees are drawn up and her heels are turned out slightly. Her genital area is fully visible. She engages the viewer with direct eye contact while sucking her thumb. Her other arm is wrapped across the front of her body. The image presents as fully contrived by the photographer.

The Classification Office consulted with an expert on Judaism and made extensive use of recently published reference works on Judaism. The owner-photographer's written submission on the photographs has been given significant weight in coming to a determination on this photograph. In coming to its decision the Classification Office has expressly considered the manner in which the girl has been photographed and the interpretations likely to be put on the image as a result. The Classification Office considers that, viewed outside the owner's intended context, the girl's nudity and inclusion of her genital area in the image may suggest a sexual interpretation. Sexual readings are not set up within the image, however it is highly loaded with meanings specific or relevant to Judaism that are not immediately apparent to uninformed viewers. For these reasons the Classification Office considers that making the photograph available to persons beyond the context in which it has been created and is intended to be used would be exploitative of the child subject.

The photograph is intended to be used by the owner for artistic purposes. The image is of the photographer's own child. The owner states the image would be manipulated with computer software. The evidence provided by the owner and the applicant when submitting the publications consistently points to the owner's interest in, and artistic exploration of, traditional and contemporary practices and issues in Judaism, issues of interest to feminists, and issues arising from the intersection of Judaism and feminism. The image embodies a number of meanings with complex relationships that are specific to Judaism, referring to subjects including the position of women in contemporary Jewish society, particularly in relation to central religious obligations. The manner in which those meanings have been organised in the image might be considered to be somewhat confrontational and challenging, particularly for Jewish viewers who would be more likely to understand those meanings, however this appears to be the photographer's intent and is consistent with much contemporary artistic guiding philosophy.

The photograph may therefore have some merit and value in relation to social and cultural matters. As a statement or exploration of Judaism and feminism the image may contribute to representation of a community relatively marginalised in New Zealand society. In addition, issues such as the image raises appear to be subject to ongoing discussion and debate at least in Reform congregations, if not also Orthodox, within contemporary New Zealand Jewry.

Having considered this photograph under the criteria of the Films, Videos, and Publications Classification Act 1993 (FVPC Act) and the relevant provisions of the New Zealand Bill of Rights Act 1990, in the Classification Office's opinion its availability is likely to be injurious to the public good unless it is restricted to the child depicted and her parents or legal guardians, one of whom is also the photographer and owner of the photographs. That the image may be confrontational or offensive to some viewers is insufficient reason in itself to limit freedom of expression (unless there is associated with it some discernible likelihood of harmful disruption to 'the social contract'), since intent to confront viewers and provoke debate appears in this case to be part of artistic expression and exploration. However injury to the public good is likely to result from a wider availability, due to the exploitative use to which the image is likely to be put. In the Office's opinion this is a reasonable limit on freedom of expression consistent with the main aim of the FVPC Act to limit harm to society such as would arise from likely exploitative misuse of the photograph for prurient purposes.

OFLC Ref: 9801323